

BEFORE THE ARIZONA MEDICAL BOARD

In the Matter of

W. NEIL CHLOUPEK, M.D.

Holder of License No. 4553
For the Practice of Allopathic Medicine
In the State of Arizona.

Case No: MD-03-0248

**AMENDED
INTERIM FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER
FOR SUMMARY RESTRICTION OF
LICENSE**

INTRODUCTION

The above-captioned matter came on for discussion before the Arizona Medical Board ("Board") at its February 13, 2004 Board Meeting. After reviewing relevant information and deliberating, the Board voted to enter the following Interim Findings of Fact, Conclusions of Law and Order for Summary Restriction of License, pending formal hearings or other Board action. A.R.S. § 32-1451(D).

INTERIM FINDINGS OF FACT

1. The Board is the duly constituted authority for the regulation and control of the practice of allopathic medicine in the State of Arizona.

2. Respondent is the holder of License No. 4553 for the practice of allopathic medicine in the State of Arizona.

3. A Stipulated Rehabilitation Agreement for substance abuse between the Board and Respondent terminated in 1990¹. In 2003 while conducting an investigation of the possible relapse of another physician the Board discovered that Respondent had been prescribing controlled substances to the physician. Respondent was interviewed in connection with this prescribing.

¹ Respondent first entered the Board's treatment program in 1982 and was in and out of the program until 1990.

1 4. During this interview Respondent admitted to the Board's contracted
2 addiction medicine specialist ("Specialist") that he used alcohol frequently and that he took
3 Schedule II and III narcotics, which although prescribed by other physicians, is troubling
4 based on Respondent's history of addiction and poly-substance abuse.

5 5. On August 4, 2003 the Executive Director of the Arizona Medical Board
6 ("Executive Director") issued a Confidential Interim Order requiring Respondent to undergo
7 an inpatient evaluation and any treatment recommended as a result of the evaluation.
8 Respondent appealed the issuance of this Interim Order to the Board. The Board upheld
9 the Executive Director's action. Thereafter, in September 2003 Respondent presented to
10 Talbott Recovery ("Talbott") for the ordered evaluation.

11 6. Specialist conducted a second interview with Respondent after receiving the
12 Talbott report. Specialist was concerned with references in the Talbott report to
13 Respondent's use of alcohol and mood altering substances, particularly Ritalin and with a
14 Global Assessment of Function ("GAF") rating of Respondent at 40 (seriously impaired.)

15 7. Upon further review of the Talbott Report the Board became aware of
16 additional errors, including the wrong dates of attendance for Respondent. In addition,
17 after the second interview with Specialist, Talbott changed the GAF rating to 50 after
18 conversations with Respondent's attorney.

19 8. On November 18, 2003 the Executive Director issued a second Confidential
20 Interim Order requiring Respondent to undergo an inpatient evaluation at Hazeldon
21 Springbrook. Respondent complied. On December 18, 2003 the Board held a
22 teleconference meeting to consider a Summary Action against Respondent's license. At
23 the conclusion of the teleconference the Board ordered Respondent to undergo a third
24 inpatient evaluation at a Board approved facility. Respondent was ordered to undergo the
25

1 evaluation at the Betty Ford Center ("Betty Ford"). The Board instructed that after the
2 Betty Ford evaluation was complete it would again review Respondent's case.

3 9. Respondent was admitted to Betty Ford on January 19, 2004. The Betty
4 Ford assessment concluded that Respondent did meet the criteria for Poly-Substance
5 Dependence with Ritalin, Ambien and alcohol. During the Betty Ford evaluation
6 Respondent admitted that he had relapsed and acknowledged that his use of alcohol and
7 Ritalin was inappropriate given his diagnosis. However, it was not until the conclusion of
8 his evaluation at Betty Ford that Respondent fully exposed the extent of his relapses and
9 the period of time over which they occurred. In addition, Respondent had not shared this
10 information with the other evaluating facilities.

11 10. Based upon Respondent's admitted relapse and use of alcohol and Ritalin
12 and the foregoing, the Board finds that it has been presented with sufficient, substantial
13 and reliable information concerning Respondent's professional conduct to conclude that,
14 pending formal administrative hearing, the public health, safety and welfare imperatively
15 require emergency action by the Board against Respondent's license to practice allopathic
16 medicine in the State of Arizona.

17 **INTERIM CONCLUSIONS OF LAW**

18 1. The Board possesses jurisdiction over the subject matter hereof and over
19 Respondent, holder of License No. 4553 for the practice of allopathic medicine in the State
20 of Arizona.

21 2. The conduct and circumstances described above constitute unprofessional
22 conduct pursuant to A.R.S. § 32-1401(26)(f) ("[h]abitual intemperance in the use of alcohol
23 or habitual substance abuse.")
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1 3. Based on the foregoing Interim Findings of Fact and Conclusions of Law, the
2 public health, safety or welfare imperatively requires emergency action. A.R.S. § 32-
3 1451(D).

4 ORDER

5 Based on the foregoing Interim Findings of Fact and Conclusions of Law, set forth
6 above,

7 IT IS HEREBY ORDERED THAT:

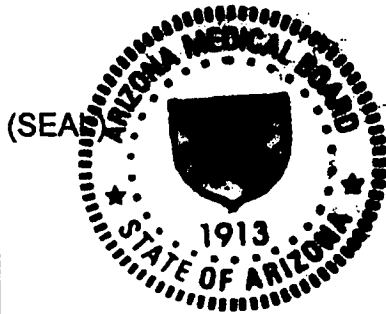
8 1. Respondent's license to practice allopathic medicine in the State of Arizona,
9 License No. 4553, is summarily restricted in that Respondent shall not practice clinical
10 medicine or any medicine involving direct patient care, and is prohibited from prescribing
11 any form of treatment including prescription medications until he has successfully
12 completed an in-patient treatment program approved by Board Staff and enters into a
13 monitoring program. Respondent may then reapply to the Board for approval to return to
14 the practice of medicine. This restriction is in place pending a formal hearing before a
15 hearing officer from the Office of Administrative Hearings.

16 2. The Interim Findings of Fact and Conclusions of Law constitute written notice
17 to Respondent of the charges of unprofessional conduct made by the Board against him.
18 Respondent is entitled to a formal hearing to defend these charges as expeditiously as
19 possible after the issuance of this order.

20 3. The Board's Executive Director is instructed to refer this matter to the Office
21 of Administrative Hearings for scheduling of an administrative hearing to be commenced
22 as expeditiously as possible from the date of the issuance of this order, unless stipulated
23 and agreed otherwise by Respondent.

1 DATED this 24th day of FEBRUARY, 2004.

2 ARIZONA MEDICAL BOARD



5 By: *Amanda Diehl*
6 BARRY A. CASSIDY, Ph.D., PA-C
7 Executive Director
8 AMANDA DIEHL
9 Assistant Director

10 ORIGINAL of the foregoing filed this
11 24th day of FEBRUARY, 2004, with:

12 The Arizona Medical Board
13 9545 E. Doubletree Ranch Road
14 Scottsdale, Arizona 85258

15 Executed copy of the foregoing mailed by Certified
16 Mail this 24th day of FEBRUARY, 2004, to:

17 Roger Morris
18 Quarles & Brady Streich Lang LLP
19 Two North Central
20 Phoenix, Arizona 85004-2391

21 EXECUTED COPY of the foregoing mailed by
22 First-class Mail this 24th day of FEBRUARY, 2004 to:

23 W. Neil Chloupek, M.D.
24 Address of Record

25 Executed copy of the foregoing delivered via
interagency mail this 24th day of FEBRUARY, 2004,
to:

Stephen Wolf
Assistant Attorney General
Arizona Attorney General's Office
1275 West Washington
Phoenix, Arizona 85007

William Joseph

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INTERIM FINDINGS OF FACT

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11 10. Based upon Respondent's admitted relapse and use of alcohol and Ritalin
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17 INTERIM CONCLUSIONS OF LAW

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3. Based on the foregoing Interim Findings of Fact and Conclusions of Law, the public health, safety or welfare imperatively requires emergency action. A.R.S. § 32-1451(D).

ORDER ,

Based on the foregoing Interim Findings of Fact and Conclusions of Law, set forth above,

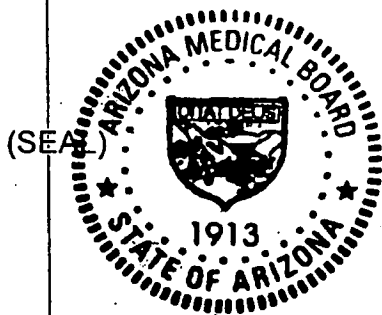
IT IS HEREBY ORDERED THAT:

1. Respondent's license to practice allopathic medicine in the State of Arizona, License No. 4553, is summarily restricted in that Respondent shall not practice clinical medicine or any medicine involving direct patient care, and is prohibited from prescribing any form of treatment including prescription medications pending a formal hearing before a hearing officer from the Office of Administrative Hearings.

2. The Interim Findings of Fact and Conclusions of Law constitute written notice to Respondent of the charges of unprofessional conduct made by the Board against him. Respondent is entitled to a formal hearing to defend these charges as expeditiously as possible after the issuance of this order.

3. The Board's Executive Director is instructed to refer this matter to the Office of Administrative Hearings for scheduling of an administrative hearing to be commenced as expeditiously as possible from the date of the issuance of this order, unless stipulated and agreed otherwise by Respondent.

1 DATED this 17th day of February, 2004.



ARIZONA MEDICAL BOARD

5 By: Amanda Kelly
6 BARRY A. CASSIDY, Ph.D., PA-C
7 Executive Director
8 AMANDA DIEHL
9 Assistant Director

10 ORIGINAL of the foregoing filed this
11 17th day of February, 2004, with:

12 The Arizona Medical Board
13 9545 E. Doubletree Ranch Road
14 Scottsdale, Arizona 85258

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Assistant Attorney General
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1275 West Washington
Phoenix, Arizona 85007

